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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,348	08/28/2003	Daniel Ray Downing	DN2001124D01	6674

27280 7590 05/20/2005

THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON, OH 44316-0001

EXAMINER

GOODMAN, CHARLES

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,348

Applicant(s)

DOWNING, DANIEL RAY

Examiner

Charles Goodman

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on IDS filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 20-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account. Note the Withdrawal of Issue mailed on 3/14/2005.
2. The indicated allowability of claims 1-7 and 20-32 are withdrawn in view of the newly discovered reference(s) to, inter alia, Benzing (WO 00/51810) which was provided by the Applicant in the IDS filed on 10/8/2004. Rejections based on the newly cited reference(s) follow.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 8-20¹ have been renumbered 20-32.

¹ The mentioned claims 8-20 are referring to the "new" claims presented in the amendment filed on 8/2/2004. Note that in a preliminary amendment filed on 8/28/03, Applicant had cancelled original claims 8-19.

4. As mentioned above, when new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Any claims mentioned in the rest of the current action refers to the claims as they have been renumbered.

5. Claim 32 (misnumbered claim 20) is objected to because of the following informalities: the claim is a duplicate of claim 31 (misnumbered claim 19) and both depend from the same claim, claim 29 (misnumbered claim 17). Appropriate correction is required, i.e. it is suggested that claim 32 be CANCELLED.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1, 2, 4-7, and 20-32 are rejected under 35 U.S.C. 102(a) as being anticipated by Benzing (WO 00/51810).

Benzing discloses a method of forming splice joints for elastomeric materials comprising all the steps claimed including, inter alia, moving a cutting device (e.g. 120) into cutting engagement of the elastomeric strip (1) while supporting the strip on an anvil (e.g. 108, 110); positioning the cutting edge of the cutting device at a gap distance (d) above the anvil slightly less than or equal to the thickness of the cord reinforced component (see p. 9, l. 29 - p. 10, l. 4); cutting the strip at a skive angle (e.g. Θ in Fig. 5A); and impacting a cord, the impacting inherently occurs at times since neither the

reference nor Applicant's invention teach or suggest a method or means that prevents any impacting to occur. See whole patent.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benzing (WO 00/51810) in view of Bell et al (US 5,265,508).

Benzing discloses the invention substantially as claimed except for the step of movably restraining the strip ahead of the cutting. However, Bell et al teaches the method step of movably restraining as claimed in the form of press rollers (36, 43 - e.g. Fig. 7) for the purpose of ensuring unwanted movement of the strip during the cutting operation. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the method of Benzing with the movably restraining step as taught and suggested by Bell et al in order to facilitate positive restraint of the strip from unwanted movement during the cutting operation.


Conclusion


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (571) 272-4508. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (571) 272-4514. In lieu of mailing, it is encouraged that all formal responses be faxed to (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

cg 
May 15, 2005


Charles Goodman
Primary Examiner
AU 3724

CHARLES GOODMAN
PRIMARY EXAMINER